

REMARKS

The Office Action dated January 28, 2008, has been received and carefully considered. In this response, the specification and claim 10 have been amended. No new matter has been added. Entry of the amendments to the specification and claim 10 is respectfully requested. Reconsideration of the current objections/rejections in the present application is also respectfully requested based on the following remarks.¹

At the outset, the undersigned thanks the Examiner for the courtesies extended during the telephonic interview conducted on April 24, 2008, during which agreement was reached on language to be added to claim 10, which is reflected herein.

I. THE ALLOWANCE OF CLAIMS 1-9

Applicant notes with appreciation the indication on page 3 of the Office Action that claims 1-9 have been allowed.

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions made by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., assertions regarding dependent claims, whether a reference constitutes prior art, and whether references are legally combinable for obviousness purposes) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

II. THE PRIORITY CLAIM

On page 2 of the Office Action, the Examiner pointed out that the priority claim should properly be made to U.S. Provisional Application No. 60/474,015 (i.e., as opposed to 60/474,014). Applicant thanks the Examiner for bringing this typographical error to Applicant's attention. To correct this typographical error, Applicant has amended the specification and submits herewith an Application Data Sheet with the proper priority claim information. Unfortunately, the Assignee has not been able to locate and/or contact the inventor to have him execute a new declaration. However, in accordance with 37 CFR § 1.76(c) and (d), an Application Data Sheet should govern in this particular scenario.

III. THE NON-STATUTORY SUBJECT MATTER REJECTION OF CLAIMS 10-16

On pages 2-3 of the Office Action, claims 10-16 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is hereby respectfully traversed.

In the telephonic interview conducted on April 24, 2008, the Examiner asserted that the term "system" in claim 10 may encompass solely software and that claim 10 is thus non-statutory. Applicant respectfully disagrees since the

specification clearly supports the structural aspects of the means plus function claim elements (e.g., see Figure 3; page 16, lines 13-23; page 17, lines 1-23; page 18, lines 1-4). However, in order to forward the present application toward allowance, Applicant has amended claim 10 to include additional structural language that is acceptable to the Examiner.

In view of the foregoing, it is respectfully requested that the aforementioned non-statutory subject matter rejection of claims 10-16 be withdrawn.

IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

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Deposit Account No. 50-0206, and please credit any excess fees
to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By: 

Thomas E. Anderson

Registration No. 37,063

TEA/vrp

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

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